A.F.R.

05-04-2006

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.No.687/2006

CORAM: Hon'ble Shri S.R.Nayak, Chief Justice &
Hon'ble Shri Dilip Raosaheb Deshmukh, J.

PETITIONERS : 1. Vivek Shukla, S/o Shri C.L.Shukla, aged about 27 years, R/o House No.108, Trimurti Chowk, Sundarnagar, Raipur, Distt. Raipur (C.G.)

: 2. Dr. Tulsidas Markam, S/o Shri Ram Chandra Singh, aged about 27 years, R/o. C/o. Savitri Yadav, Village Bade Urla, Post Abhanpur, District-Raipur (C.G).

Versus

RESPONDENTS : 1. State of Chhattisgarh through Secretary, of the General Administration Department, D.K.S.Bhawan, Mantralaya, Raipur (C.G.)

: 2. Chhattisgarh Public Service Commission, Through its Chairman, District Raipur (C.G.)

Shri Prateek Sharma, Counsel for the petitioners.
Shri Vinay Harit, Dy.A.G. for the State.
Shri Ashish Shrivastava, Counsel for respondent No.2

ORAL ORDER
(Passed on 5.4.2006)

The following oral order of the Court was passed by S.R.NAYAK, C.J.

In this writ petition, the action of the Chhattisgarh Public Service Commission, "the Commission" for short, in cancelling preliminary examination, 2005 as a whole conducted for filling about 181 posts in the services under the Chhattisgarh State, is assailed.

2. The Governor of Chhattisgarh State has framed Rules for the Combined Competitive Examination (CCE) called State Services Examination Rules (for short 'Rules') for recruiting personnel to

various posts/services under the State and has empowered the Commission to conduct examinations annually in that regard and to send the select list of the candidates for consideration of the State Government for their appointment in the respective services under the State. Accordingly and in terms of the Rules, the Chhattisgarh State Government on or about 27.8.2005 issued an employment notification and the same was published in Newspapers calling for applications from the eligible candidates for filling about 181 posts in various cadres. The examinations consisted of two stages; (i) Preliminary Examination (objective type), for selection of candidates for the main examination; and (ii) Main Examination (written and interview) for final selection of the candidates.

3. In response to employment notification, 79,953 candidates including the present petitioners applied for the posts. Of them 60,592 candidates appeared in the preliminary examination conducted on 6.11.2005, as per the schedule. Results of Preliminary Examination were declared on 19.12.2005 and the same were published in the Rojgar Aur Niyojan on 28.12.2005. 2716 candidates which include the petitioners passed the Preliminary Examination.

4. On 20.12.2005, the Commission floated model answer papers in the internet and that led to the controversy by complaining that some model answer papers show wrong answers and that no answers have been mentioned in front of some questions etc.

5. The Commission acting on the above complaints, in its meeting held on 13.1.2006 cancelled the results of the Preliminary Examination declared on 19.12.2005 and decided to hold fresh Preliminary Examination and that decision was reported in the Rojgar Aur Niyojan on 18.1.2006.

6. The petitioners being aggrieved by the above actions of the Commission have preferred this writ petition praying for the following reliefs:

> "7. RELIEF(S) SOUGHT:-
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> The petitioners most respectfully prayed for the following reliefs:
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> "7.1 That, the Hon'ble High Court be pleased to call for the entire records of the case.
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> 7.2 That, the impugned decision dated 13/1/2006 of respondent no.2 published on 14/1/06 vide Annexure P/10 may kindly be quashed."

7. The writ petition is contested by the Commission by filing return. In the return, it is stated that when it came to know that technical errors had crept in the preparation of model answer sheets by the then Examination Controller, it took the impugned action not only to cancel the results of the Preliminary Examination but also to conduct fresh Preliminary Examination; that its decision is *bona fide* and is intended to maintain transparency in conduct of the Preliminary Examination.

8. We have heard Shri Prateek Sharma learned counsel for the petitioners, Shri Vinay Harit, learned Deputy Advocate General for the State of Chhattisgarh who appeared for the State of Chhattisgarh and Shri Ashish Shrivastava, learned counsel for the Commission. Learned counsel for the petitioners would contend that though there was justification for cancelling the results of the Preliminary Examination, there is absolutely no rhyme or reason for cancelling the Preliminary Examination itself and taking decision to hold fresh Preliminary Examination. It was highlighted by the learned counsel for the petitioners that if the assessment of answer scripts of the Preliminary Examination is erroneous because of the mistakes that crept in the preparation of model answers and feeding them in

the Web-Site by the then Controller of Examinations, that mistake can be rectified and answer scripts already available could be assessed in accordance with the correct model answers.

9. Learned counsel for the respondents, however, would support the impugned decision of the Commission.

10. Having heard the learned counsel for the parties, the only question that arises for decision is whether the Commission is justified and legally acted in cancelling not only the results of Preliminary Examination, 2005 but also cancelling the said Examination and taking decision to conduct Preliminary Examination once again to fill posts in various services under the State?

11. We cannot take any exception to the action of the Commission in so far as it has cancelled the results of the Preliminary Examination, 2005 is concerned. We say this, because, the results of the Preliminary Examination are cancelled by the Commission on the ground that the model answers fed into Web-Site are erroneous and if they were allowed to stand, it would have resulted in prejudice to the candidates who appeared in the Preliminary Examination and wrote correct answers. However, we cannot sustain the decision of the Commission with regard to cancellation of the Preliminary Examination, 2005 itself and deciding to conduct Preliminary Examination *de novo* for roughly 80,000 candidates at the cost of the State Exchequer and at the peril and inconvenience of the candidates. It needs to be noticed that there was absolutely no good reason for the Commission to cancel the Preliminary Examination itself. The answer scripts of all those candidates who appeared in the Preliminary Examination are available with the Commission and they could conveniently and correctly be re-assessed in accordance with the correct model answers that may be floated into Web-Site. Such a course of action

on the part of the Commission, which is quite feasible and practicable, would avoid unnecessary expenditure by the State as well by the candidates for various posts and also the inconvenience and hardship that may be caused to the candidates in the event of the Commission holding Preliminary Examination once again. Therefore, we are of the considered opinion that the decision of the Commission to cancel the Preliminary Examination is totally arbitrary, unreasonable and it does not stand the scrutiny of Article 14 postulates. That decision of the Commission would not serve any public interest. If it is allowed to stand, it will be injurious to public interest as well as the interest of the candidates who have applied for various posts. Although this Court under Article 226 is very slow to interfere with the decisions of the University and its academic bodies, a weighty ground is made out in this case warranting our interference. We are convinced that our refusal to interfere would result in public mischief.

12. In the result and for the foregoing reasons, we allow the writ petition and quash the impugned decision of the Commission in so far as it has decided to hold fresh Preliminary Examination (objective type) is concerned. We make it very clear that the action of the Commission in cancelling the results of Preliminary Examination, 2005 shall stand. However, in the facts and circumstances of case, the parties shall bear their respective costs.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Sd/-
Chief Justice

Anjani